

No. 118585

IN THE  
SUPREME COURT OF ILLINOIS

---

IN RE: PENSION REFORM LITIGATION  
(consolidated pursuant to Supreme Court Rule 384)

) Appeal from the Circuit Court  
) for the Seventh Judicial Circuit,  
) Sangamon County, Illinois, No.  
) 2014 MR 1  
) Honorable JOHN W. BELZ  
) Judge Presiding

---

**SUPPORTING RECORD**

**LISA MADIGAN**

Attorney General  
State of Illinois

**CAROLYN E. SHAPIRO**

Solicitor General

100 W. Randolph St., 12th Floor  
Chicago, Illinois 60601  
(312) 814-3312

Counsel for Defendants-Appellants

**RICHARD S. HUSZAGH**

Assistant Attorney General  
100 W. Randolph St., 12th Floor  
Chicago, Illinois 60601  
(312) 814-2587

**FILED**

DEC 4 2014

**SUPREME COURT  
CLERK**

## INDEX TO SUPPORTING RECORD

Description	Page(s)
Notice of Appeal (Nov. 26, 2014) and attached Nov. 21, 2014 Order and Nov. 25, 2014 Rule 18 findings. . . . .	1 - 10
Defts' Nov. 25, 2014 motion for Rule 18 findings. . . . .	11 - 19
Excerpts of Ex. 36, Defts' Oct. 3, 2014 Appendix in support of motion for summary judgment. . . . .	20 - 25
Affidavit of Carolyn E. Shapiro. . . . .	26 - 30

**FILED**

NOV 26 2014 CV-1

*Anthony P. Delaney*  
Clerk of the  
Circuit CourtAPPEAL TO THE  
SUPREME COURT OF ILLINOISFrom the Circuit Court for the Seventh Judicial Circuit,  
Sangamon County, Illinois

---

IN RE: PENSION REFORM LITIGATION	)	No. 2014 MR 1
	)	Hon. John W. Belz

---

DORIS HEATON, <i>et al.</i> ,	)	
Plaintiffs-Appellees,	)	Originally Filed as
v.	)	Cook County Case
PAT QUINN, Governor of Illinois, <i>et al.</i> ,	)	No. 2013 CH 28406
Defendants-Appellants.	)	

---

RETIRED STATE EMPLOYEES ASS'N RETIREES, <i>et al.</i> ,	)	
Plaintiffs-Appellees,	)	Originally Filed as
v.	)	Sangamon County Case
PATRICK QUINN, Governor of Illinois, <i>et al.</i> ,	)	No. 2014 MR 1
Defendants-Appellants.	)	

---

ILLINOIS STATE EMPLOYEES ASS'N, <i>et al.</i> ,	)	
Plaintiffs-Appellees,	)	Originally Filed as
v.	)	Sangamon County Case
BOARD OF TRUSTEES OF STATE EMPLOYEES	)	No. 2014 CH 3
RETIREMENT SYSTEM OF ILLINOIS, <i>et al.</i> ,	)	
Defendants-Appellants.	)	

---

GWENDOLYN A. HARRISON, <i>et al.</i> ,	)	
Plaintiffs-Appellees,	)	Originally Filed as
v.	)	Sangamon County Case
PATRICK QUINN, Governor of Illinois, <i>et al.</i> ,	)	No. 2014 CH 48
Defendants-Appellants.	)	

---

STATE UNIVERSITIES ANNUITANTS ASS'N, <i>et al.</i> ,	)	
Plaintiffs-Appellees,	)	Originally Filed as
v.	)	Champaign County Case
STATE UNIVERSITIES RETIREMENT SYSTEM, <i>et al.</i> ,	)	No. 2014 MR 207
Defendants-Appellants.	)	

---

**Notice of Appeal****SR 1**

Defendants, Illinois Governor Pat Quinn, *et al.*, by their counsel, Illinois Attorney General Lisa Madigan, (1) appeal to the Supreme Court, pursuant to Supreme Court Rule 302(a), from the circuit court's November 21, 2014 order, as supplemented by the circuit court's November 25, 2014 findings pursuant to Supreme Court Rule 18 (copies of which are attached as Exhibits A and B) (collectively, the "Judgment"), which, among other things, (a) entered judgment in favor of all of the plaintiffs in these consolidated cases on their claims that various provisions of Public Act 98-599 (the "Act") violate the Pension Clause of the Illinois Constitution (art. XIII, § 5), (b) declared the Act void in its entirety, and (c) entered a finding pursuant to Supreme Court Rule 304(a) that there is no just reason to delay enforcement or appeal; and (2) request (a) reversal of the Judgment, (b) remand for the purposes of addressing the merits of all of the plaintiffs' claims, including the merits of the plaintiffs' Pension Clause claims in light of the affirmative matter alleged in the defendants' answers, and (c) such further relief as is warranted.

Respectfully submitted,

LISA MADIGAN  
Attorney General of Illinois

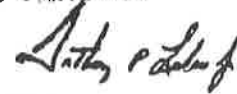
By: 

Joshua D. Ratz  
Assistant Attorney General  
100 W. Randolph, 12th Floor  
Chicago, Illinois 60601  
(312) 814-2587

Brent D. Stratton  
R. Douglas Rees  
Gary S. Caplan  
Richard S. Huszagh  
Assistant Attorneys General  
100 W. Randolph, 12th Floor  
Chicago, Illinois 60601  
(312) 814-2587

NOV 21 2014 FAM E

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY, ILLINOIS



Clerk of the  
Circuit Court

IN RE: PENSION LITIGATION

) No. 2014 MR 1  
) Hon. John W. Belz  
)

**ORDER**

This matter comes before the Court in these consolidated cases on the plaintiffs' joint motion for partial summary judgment, the *ISEA*, *RSEA*, *Heaton* and *Harrison* plaintiffs' joint motion for judgment on the pleadings as to the affirmative defense, or in the alternative, to strike the affirmative defense, and the *SUAA* plaintiffs' motion to strike the affirmative defense (the "Plaintiffs' Motions").

The plaintiffs in these consolidated cases allege that Public Act 98-0599 (the "Act") violates the Pension Protection Clause of the Illinois Constitution (Article XIII, §5) and that the Act is unconstitutional and void in its entirety. In their affirmative defense, the Defendants assert that the Act is justified as an exercise of the State's reserved sovereign powers or police powers. The Court hereby rules in favor of the plaintiffs on each motion and further finds and orders as follows:

1. The Pension Protection Clause of the Illinois Constitution states: "Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired." (Illinois Constitution, Article XIII, §5.) This constitutional language is "plain" and "unambiguous," and, therefore, the Pension Protection Clause is "given effect without resort to other aids for construction." *Kanerva v. Weems*, 2014 IL 115811, ¶¶ 36, 41-42. Under the Pension Protection Clause, "it is clear that if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State's pension or retirement systems, it cannot be diminished or impaired." *Id.*, ¶ 38. The Illinois

EXHIBIT A  
SR 3

legislature could not have been more clear that any attempt to diminish or impair pension rights is unconstitutional.

2. The Court finds that, on its face, the Act impairs and diminishes the benefits of membership in State retirement systems in multiple ways, including the following:

a. The Act adds new language to the Pension Code which provides that, on or after the Act's effective date, the 3% compounded automatic annual increases (AAIs) that have been mandated by the Pension Code for many years shall instead be "calculated as 3% of the lesser of (1) the total annuity payable at the time of the increase, including previous increases granted, or (2) \$1,000 multiplied by the number of years of creditable service upon which the annuity is based . . . ."

See the Act's amendments to 40 ILCS 5/2-119.1(a-1), 40 ILCS 5/15-136(d-1), 40 ILCS 5/16-133.1(a-1); see also the Act's amendments to 40 ILCS 5/14-114(a-1). The defendants admit that these amendments will reduce the AAI amounts that certain pension system members receive. See, *e.g.*, Answer to *Heaton* Amended Complaint, ¶¶ 43, 45, 47, 51, 55, 57, 61, 65; Answer to *Harrison* Complaint, ¶¶ 93-96, 133-140.

b. The Act also provides that State retirement system members who have not begun to receive a retirement annuity before July 1, 2014, will receive no AAI at all on alternating years for varying lengths of time, depending on their age. See the Act's amendments to 40 ILCS 5/2-119.1(a-2), 40 ILCS 5/14-114(a-2), 40 ILCS 5/15-136(d-2), 40 ILCS 5/16-133.1(a-2). The defendants admit that these amendments will reduce the AAI amounts that certain pension system members receive. See, *e.g.*, Answer to *Heaton* Amended Complaint, ¶¶ 13, 47, 51, 57, 61, 65; Answer to *Harrison* Complaint, ¶ 98; Answer to *SUAA* Amended Complaint, ¶¶ 142-45.

c. The defendants admit that Public Act 98-0599 also imposes a new cap on the

pensionable salary of members of certain State retirement systems. See, e.g., the Act's amendments to 40 ILCS 5/16-121; see also, e.g., Answer to *Harrison* Complaint, ¶¶ 100-04; Answer to *Heaton* Amended Complaint, ¶¶ 49, 67. That cap is the greater of: (1) the salary cap that previously applied only to members who joined the retirement system on or after January 1, 2011; (2) the member's annualized salary as of June 1, 2014; or (3) the member's annualized salary immediately preceding the expiration, renewal, or amendment of an employment contract or collective bargaining agreement in effect on June 1, 2014. See the Act's amendments to 40 ILCS 5/14-103.10(h), 40 ILCS 5/15-111(c), 40 ILCS 5/16-121; see also the Act's amendments to 40 ILCS 5/2-108. The new cap will reduce annuity payments, which are based in part on a pension system member's pensionable salary.

d. Public Act 98-0599 also raises the retirement age for members of certain State retirement systems on a sliding scale based upon one's age. See the Act's amendments to 40 ILCS 5/2-119(a-1), 40 ILCS 5/14-107(c), 40 ILCS 5/15-135(a-3), 40 ILCS 5/16-132; see also, e.g., Answer to *Harrison* Complaint, ¶¶ 106-07; Answer to *Heaton* Amended Complaint, ¶¶ 48, 52, 58, 62, 66; Answer to *SUAA* Amended Complaint, ¶ 68.

e. The Act also alters "the method for determining the 'effective rate of interest' used to calculate pensions for members under the money-purchase formulas included in Articles 15 and 16 of the Pension Code." See Defendants' Affirmative Matter, ¶ 10; Answer to *SUAA* Amended Complaint, ¶¶ 64-67; see also the Act's amendments to 40 ILCS 5/15-125 and 40 ILCS 5/16-112. It is uncontested that this change, too, would reduce pension annuity payments.

3. The Act without question diminishes and impairs the benefits of membership in State retirement systems. Illinois Courts have consistently held over time that the Illinois Pension Clause's protection against the diminishment or impairment of pension benefits is absolute and

without exception. The Illinois Supreme Court has “consistently invalidated amendment to the Pension Code where the result is to diminish benefits.” *McNamee v. State*, 173 Ill. 2d 433, 445 (1996). In their affirmative matter, the defendants assert that the Act is nonetheless justified as an exercise of the State’s reserved sovereign powers or police powers. The Court finds as a matter of law that the defendants’ affirmative matter provides no legally valid defense. The Court “may not rewrite the pension protection clause to include restrictions and limitations that the drafters did not express and the citizens of Illinois did not approve.” *Kanerva*, 2014 IL 115811, ¶ 41. The Pension Protection Clause contains no exception, restriction or limitation for an exercise of the State’s police powers or reserved sovereign powers. Illinois courts, therefore, have rejected the argument that the State retains an implied or reserved power to diminish or impair pension benefits. See *Felt v. Bd. of Trustees of Judges Retirement System*, 107 Ill.2d 158, 167-68 (1985) (holding that, to recognize such a power, “we would have to ignore the plain language of the Constitution of Illinois”); *Kraus v. Bd. of Trustees of Police Pension Fund of Vill. of Niles*, 72 Ill. App. 3d 833, 851 (1979).

4. Because the Act diminishes and impairs pension benefits and there is no legally cognizable affirmative defense, the Court must conclude that the Act violates the Pension Protection Clause of the Illinois Constitution. The Court holds that Public Act 98-0599 is unconstitutional.

5. The Act contains a “[s]everability and inseverability” clause. See Public Act 98-0599, §97. That provision states that the Act’s changes to 39 distinct sections and subsections of various statutes “are mutually dependent and inseverable from one another,” but that the Act is severable as a general proposition. *Id.* That list of 39 inseverable provisions includes certain of the benefit-reduction provisions that this Court has held to be unconstitutional. Therefore, all 39 provisions identified in the Act’s “[s]everability and inseverability” clause must fail. Those



inseverable provisions are significant to the overall operation of the Act. They include, for example, the Act's mechanism for supposedly guaranteeing funding of the State pension systems. See Public Act 98-0599, §97. In addition, "severability" language is not dispositive. Notwithstanding the presence of a severability clause, legislation is not severable where, as here, it is a broad legislative package intended to impose sweeping changes in a subject area, and the unconstitutional provisions of that package are important elements of it. See *Cincinnati Ins. Co. v. Chapman*, 181 Ill.2d 65, 81-86 (1998); see also *Best v. Taylor Mach. Works*, 179 Ill.2d 367, 459-67 (1997). The Act's provisions "are all part of an integral bipartisan package." See 98th Ill. Gen. Assem., Senate Pro., Dec. 3, 2013, at 4 (Sen. Raoul). The Court holds that Public Act 98-0599 is inseverable and void in its entirety.

6. The defendants have attempted to create a factual record to the effect that, if a reserved sovereign power to diminish or impair pensions existed, the facts would justify an exercise of that power. The defendants can cite to no Illinois case that would allow this affirmative defense. Because the Court finds that no such power exists, it need not and does not reach the issue of whether the facts would justify the exercise of such a power if it existed, and the Court will not require the plaintiffs to respond to the defendants' evidentiary submissions. The plaintiffs having obtained complete relief, the Court also need not address at this time the plaintiffs' additional claims that the Act is unconstitutional or illegal on other grounds. See *Kanerva*, 2014 IL 115811, ¶ 58. In summary, the State of Illinois made a constitutionally protected promise to its employees concerning their pension benefits. Under established and uncontroverted Illinois law, the State of Illinois cannot break this promise.

WHEREFORE, the Court orders as follows:

a. The Plaintiffs' Motions are granted. The defendants' cross-motion for summary judgment is denied, with prejudice, because the Court finds that there is no police power or reserved

sovereign power to diminish pension benefits. Pursuant to 735 ILCS 5/2-701, the Court enters a final declaratory judgment that Public Act 98-0599 is unconstitutional and void in its entirety;


b. The temporary restraining order and preliminary injunction entered previously in this case is hereby made permanent. The defendants are permanently enjoined from enforcing or implementing any provision of Public Act 98-0599;

c. Pursuant to Illinois Supreme Court Rule 304(a), the Court finds that there is no just reason for delaying either enforcement of this order or appeal or both.

Date:

11/21/14

ENTERED:

  
\_\_\_\_\_  
Judge John W. Belz

FILED

NOV 25 2014 CIV-1

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY ILLINOIS

Clerk of the  
Circuit Court

IN RE: PENSION LITIGATION

No. 2014 MR 1  
Honorable John W. Belz

**Illinois Supreme Court Rule 18 Findings**

On November 21, 2014, this Court entered an order granting plaintiffs' joint motion for partial summary judgment, granting plaintiffs' joint motion for judgment on the pleadings on defendants' affirmative defense and the SUAA plaintiffs' motion to strike defendants' affirmative defense, denying defendants' cross-motion for summary judgment, permanently restraining enforcement or implementation of the Act, and finding that no just reason to delay enforcement or appeal of the order existed. Because the November 21, 2014 order, which is incorporated herein by reference, invalidated a state statute, the Court enters these findings pursuant to Illinois Supreme Court Rule 18:

1. Public Act 98-0599 (the "Act") is unconstitutional in its entirety;
2. The Act violates the Pension Protection Clause of the Illinois Constitution, Ill. Const. art. XIII, § 5;
3. The Act is unconstitutional on its face;
4. The Act cannot be reasonably construed in a manner that would preserve its validity;
5. The finding of unconstitutionality of the Act is necessary to the judgment rendered and such judgment cannot rest upon an alternative ground; and
6. The notice required by Illinois Supreme Court Rule 19 has been served and those with such notice have been given adequate time and opportunity under the circumstances to defend the Act.

Date:

11/25/14

Enter:

John Belz

EXHIBIT B  
SR 9

## Certificate of Filing and Service

I, Joshua D. Ratz, an attorney, hereby certify that on November 26, 2014, the foregoing Notice of Appeal was filed in the Circuit Court for the Seventh Judicial Circuit, Sangamon County, and that true and correct copies of the foregoing Notice of Appeal were served by electronic mail and by United States Mail, first class postage prepaid, upon all counsel of record as follows:

John E. Stevens  
Freeborn & Peters LLP  
217 East Monroe Street  
Suite 202  
Springfield, Illinois 62701

JStevens@freeborn.com

John M. Myers  
Barbara K. Myers  
Rabin & Myers, PC  
1300 South 8th Street  
Springfield, Illinois 62703

JMyers1951@gmail.com

Donald M. Craven  
Esther J. Seitz  
Donald M. Craven, P.C.  
1005 North Seventh Street  
Springfield, Illinois 62702

don@cravenlawoffice.com

Michael D. Freeborn  
John T. Shapiro  
Jill C. Anderson  
Freeborn & Peters LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606

JShapiro@freeborn.com

Gino L. DiVito  
John M. Fitzgerald  
Brian C. Haussmann  
Tabet DiVito & Rothstein LLC  
209 S. La Salle Street  
7th Floor  
Chicago, Illinois 60604

JFitzgerald@tdrlawfirm.com

Aaron B. Maduff  
Michael L. Maduff  
Walker R. Lawrence  
Maduff & Maduff, LLC  
205 North Michigan Avenue  
Suite 2050  
Chicago, Illinois 60601

abmaduff@madufflaw.com

Michael T. Reagan  
633 LaSalle St., Suite 409  
Ottawa, IL 61350

mreagan@reagan-law.com



---

Joshua D. Ratz  
Assistant Attorney General  
500 South Second Street  
Springfield, IL 62706  
Phone: (217) 782-2077  
Fax: (217) 524-5091

SR 10

**FILED**

IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY ILLINOIS

NOV 25 2014 CV-1

Clerk of the  
Circuit Court

IN RE: PENSION REFORM LITIGATION

No. 2014 MR 1  
Honorable John W. Belz

**Motion for Entry of Findings Required by Illinois Supreme Court Rule 18**

Illinois Supreme Court Rule 18 provides that a "court shall not find unconstitutional a statute, ordinance, regulation or other law" unless the court makes certain required findings, enumerated in Rule 18, "in a written order or opinion, or in an oral statement on the record that is transcribed." Pursuant to Section 2-1203 of the Code of Civil Procedure (735 ILCS 5/2-1203), Defendants respectfully request the Court to enter an order providing the required Rule 18 findings. In support of this motion, Defendants state as follows.

1. On November 21, 2014, the Court entered an order declaring that "Public Act 98-0599 is unconstitutional and void in its entirety." The Court's order largely adopted the language of a draft order that Plaintiffs' counsel had submitted in advance of the November 20 hearing. (Ex. A.) Neither Plaintiffs' proposed draft order nor the order entered by the Court contained the findings required by Supreme Court Rule 18.

2. Addressing the importance of Rule 18's requirements, the Supreme Court declared in *Bryant v. Board of Election Commissioners of City of Chicago*, 224 Ill. 2d 473, 477 (2007):

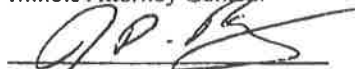
Constitutional questions should only be reached as a last resort. *In re E.H.*, 224 Ill. 2d 172, 178 (2006). So important is this principle that before a circuit court takes the extraordinary step of declaring legislation unconstitutional, our rules now require that the circuit court state in writing that the finding of unconstitutionality is necessary to the decision or judgment rendered and that such decision or judgment cannot rest upon an alternate ground. 210 Ill.2d R. 18(c)(4). A circuit court judgment which fails to adhere to this requirement may be summarily vacated and remanded. *In re E.H.*, 224 Ill. 2d at 178.

3. Defendants have submitted with this motion proposed "Illinois Supreme Court Rule 18 Findings" that provide each of the findings required by Rule 18. (Ex. B.) Defendants have addressed this issue with Plaintiffs' counsel, who have agreed to the form of the proposed findings. After the Court enters those findings, Defendants intend to take a prompt appeal so that the important issues raised by this case may be fully resolved without unnecessary delay.

WHEREFORE, without prejudice to their objections to the merits of the Court's rulings on the parties' claims, Defendants respectfully move for the Court to enter the proposed Rule 18 findings, or to modify the Court's November 21, 2014 order to contain the findings required by Supreme Court Rule 18.

Respectfully Submitted,

LISA MADIGAN  
Illinois Attorney General

  
Counsel for Defendants

Brent D. Stratton  
Richard S. Huszagh  
R. Douglas Rees  
Gary S. Caplan  
Joshua D. Ratz  
Assistant Attorneys General  
100 W. Randolph Street, 12th Floor  
Chicago, IL 60601  
312.814.3498

November 25, 2014

**Huszagh, Richard S.**

---

**From:** John Fitzgerald <jfitzgerald@TDRLAWFIRM.com>  
**Sent:** Tuesday, November 18, 2014 3:02 PM  
**To:** 'marybthe@co.sangamon.il.us'  
**Cc:** Rees, Doug; Stratton, Brent; Huszagh, Richard S.; Caplan, Gary; don@cravenlawoffice.com; 'Esther Seitz' (esther@cravenlawoffice.com); jmyers1951@gmail.com; Gino L. DiVito; Brian Haussmann; Jack Barber; Uri Abt; abmaduff@madufflaw.com; mlmaduff@madufflaw.com; 'Walker Lawrence' (wrlawrence@madufflaw.com); Shapiro, John T. (jshapiro@freeborn.com); Stevens, John E. (jstevens@freeborn.com); Freeborn, Michael D. (mfreeborn@freeborn.com)  
**Subject:** In re Pension Litigation (No. 2014 MR 1): plaintiffs' proposed order  
**Attachments:** plaintiffs' proposed order 11.18.14.doc

Dear Ms. Evans:

Per your email to John Shapiro of November 10th, attached please find the plaintiffs' proposed order in the consolidated pension litigation (No. 2014 MR 1).

Sincerely yours,  
John Fitzgerald

John M. Fitzgerald  
Partner

Tabel DiVito & Rothstein LLC  
The Rookery Building  
209 South LaSalle St., 7th Floor  
Chicago, Illinois 60604  
(312) 762-9478 Telephone  
(312) 762-9451 Facsimile  
[jfitzgerald@tdrlawfirm.com](mailto:jfitzgerald@tdrlawfirm.com)

This message is for the sole use of the intended recipient and may contain information that is privileged and/or confidential. If you are not the intended recipient of this message, please delete the message immediately and contact the sender. Thank you.

---

This email has been scanned for email related threats and delivered safely by Mimecast.  
For more information please visit <http://www.mimecast.com>

---

**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY, ILLINOIS**

IN RE: PENSION LITIGATION

) No. 2014 MR 1  
) Hon. John W. Belz  
)

**[PROPOSED] ORDER**

This matter comes before the Court in these consolidated cases on the plaintiffs' joint motion for partial summary judgment, the *ISEA*, *RSEA*, *Heaton* and *Harrison* plaintiffs' joint motion for judgment on the pleadings as to the affirmative defense, or in the alternative, to strike the affirmative defense, and the *SUAA* plaintiffs' motion to strike the affirmative defense (the "Plaintiffs' Motions").

The plaintiffs in these consolidated cases allege that Public Act 98-0599 (the "Act") violates the Pension Protection Clause of the Illinois Constitution (Article XIII, §5) and that the Act is unconstitutional and void in its entirety. The Court hereby rules in favor of the plaintiffs on each motion and further finds and orders as follows:

1. The Pension Protection Clause of the Illinois Constitution states: "Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired." (Illinois Constitution, Article XIII, §5.) This constitutional language is "plain" and "unambiguous," and, therefore, the Pension Protection Clause is "given effect without resort to other aids for construction." *Kanerva v. Weems*, 2014 IL 115811, ¶¶ 36, 41-42. Under the Pension Protection Clause, "it is clear that if something qualifies as a benefit of the enforceable contractual relationship resulting from membership in one of the State's pension or retirement systems, it cannot be diminished or impaired." *Id.*, ¶ 38.

2. The Court finds that, on its face, the Act impairs and diminishes the benefits of



membership in State retirement systems in multiple ways, including the following:

a. The Act adds new language to the Pension Code which provides that, on or after the Act's effective date, the 3% compounded automatic annual increases (AAIs) that have been mandated by the Pension Code for many years shall instead be "calculated as 3% of the lesser of (1) the total annuity payable at the time of the increase, including previous increases granted, or (2) \$1,000 multiplied by the number of years of creditable service upon which the annuity is based . . . ." See the Act's amendments to 40 ILCS 5/2-119.1(a-1), 40 ILCS 5/15-136(d-1), 40 ILCS 5/16-133.1(a-1); see also the Act's amendments to 40 ILCS 5/14-114(a-1). The defendants admit that these amendments will reduce the AAI amounts that certain pension system members receive. See, e.g., Answer to *Heaton* Amended Complaint, ¶¶ 43, 45, 47, 51, 55, 57, 61, 65; Answer to *Harrison* Complaint, ¶¶ 93-96, 133-140.

b. The Act also provides that State retirement system members who have not begun to receive a retirement annuity before July 1, 2014, will receive no AAI at all on alternating years for varying lengths of time, depending on their age. See the Act's amendments to 40 ILCS 5/2-119.1(a-2), 40 ILCS 5/14-114(a-2), 40 ILCS 5/15-136(d-2), 40 ILCS 5/16-133.1(a-2). The defendants admit that these amendments will reduce the AAI amounts that certain pension system members receive. See, e.g., Answer to *Heaton* Amended Complaint, ¶¶ 13, 47, 51, 57, 61, 65; Answer to *Harrison* Complaint, ¶ 98; Answer to *SUAA* Amended Complaint, ¶¶ 142-45.

c. The defendants admit that Public Act 98-0599 also imposes a new cap on the pensionable salary of members of certain State retirement systems. See, e.g., the Act's amendments to 40 ILCS 5/16-121; see also, e.g., Answer to *Harrison* Complaint, ¶¶ 100-04; Answer to *Heaton* Amended Complaint, ¶¶ 49, 67. That cap is the greater of: (1) the salary cap that previously applied

only to members who joined the retirement system on or after January 1, 2011; (2) the member's annualized salary as of June 1, 2014; or (3) the member's annualized salary immediately preceding the expiration, renewal, or amendment of an employment contract or collective bargaining agreement in effect on June 1, 2014. See the Act's amendments to 40 ILCS 5/14-103.10(h), 40 ILCS 5/15-111(c), 40 ILCS 5/16-121; see also the Act's amendments to 40 ILCS 5/2-108. The new cap will reduce annuity payments, which are based in part on a pension system member's pensionable salary.

d. Public Act 98-0599 also raises the retirement age for members of certain State retirement systems on a sliding scale based upon one's age. See the Act's amendments to 40 ILCS 5/2-119(a-1), 40 ILCS 5/14-107(c), 40 ILCS 5/15-135(a-3), 40 ILCS 5/16-132; see also, *e.g.*, Answer to *Harrison* Complaint, ¶¶ 106-07; Answer to *Heaton* Amended Complaint, ¶¶ 48, 52, 58, 62, 66; Answer to *SUAA* Amended Complaint, ¶ 68.

e. The Act also alters "the method for determining the 'effective rate of interest' used to calculate pensions for members under the money-purchase formulas included in Articles 15 and 16 of the Pension Code." See Defendants' Affirmative Matter, ¶ 10; Answer to *SUAA* Amended Complaint, ¶¶ 64-67; see also the Act's amendments to 40 ILCS 5/15-125 and 40 ILCS 5/16-112. It is uncontested that this change, too, would reduce pension annuity payments.

3. The defendants concede that the Act diminishes and impairs the benefits of membership in State retirement systems. In their affirmative matter, the defendants assert that the Act is nonetheless justified as an exercise of the State's reserved sovereign powers or police powers. The Court finds as a matter of law that the defendants' affirmative matter provides no legally valid defense. The Court "may not rewrite the pension protection clause to include restrictions and limitations that the drafters did not express and the citizens of Illinois did not approve." *Kanerva*,

2014 IL 115811, ¶ 41. The Pension Protection Clause contains no exception, restriction or limitation for an exercise of the State's police powers or reserved sovereign powers. Illinois courts, therefore, have rejected the argument that the State retains an implied or reserved power to diminish or impair pension benefits. See *Felt v. Bd. of Trustees of Judges Retirement System*, 107 Ill.2d 158, 167-68 (1985) (holding that, to recognize such a power, "we would have to ignore the plain language of the Constitution of Illinois"); *Kraus v. Bd. of Trustees of Police Pension Fund of Vill. of Niles*, 72 Ill. App. 3d 833, 851 (1979).

4. Because the Act diminishes and impairs pension benefits and there is no legally cognizable affirmative defense, the Court must conclude that the Act violates the Pension Protection Clause of the Illinois Constitution. The Court holds that Public Act 98-0599 is unconstitutional.

5. The Act contains a "[s]everability and inseverability" clause. See Public Act 98-0599, §97. That provision states that the Act's changes to 39 distinct sections and subsections of various statutes "are mutually dependent and inseverable from one another," but that the Act is severable as a general proposition. *Id.* That list of 39 inseverable provisions includes certain of the benefit-reduction provisions that this Court has held to be unconstitutional. Therefore, all 39 provisions identified in the Act's "[s]everability and inseverability" clause must fail. Those inseverable provisions are significant to the overall operation of the Act. They include, for example, the Act's mechanism for supposedly guaranteeing funding of the State pension systems. See Public Act 98-0599, §97. In addition, "severability" language is not dispositive. Notwithstanding the presence of a severability clause, legislation is not severable where, as here, it is a broad legislative package intended to impose sweeping changes in a subject area, and the unconstitutional provisions of that package are important elements of it. See *Cincinnati Ins. Co. v. Chapman*, 181 Ill.2d 65, 81-86

(1998); see also *Best v. Taylor Mach. Works*, 179 Ill.2d 367, 459-67 (1997). The Act's provisions "are all part of an integral bipartisan package." See 98th Ill. Gen. Assem., Senate Pro., Dec. 3, 2013, at 4 (Sen. Raoul). The Court holds that Public Act 98-0599 is inseverable and void in its entirety.

6. The defendants have attempted to create a factual record to the effect that, if a reserved sovereign power to diminish or impair pensions existed, the facts would justify an exercise of that power. Because the Court finds that no such power exists, it need not and does not reach the issue of whether the facts would justify the exercise of such a power if it existed, and the Court will not require the plaintiffs to respond to the defendants' evidentiary submissions. The plaintiffs having obtained complete relief, the Court also need not address at this time the plaintiffs' additional claims that the Act is unconstitutional or illegal on other grounds. See *Kanerva*, 2014 IL 115811, ¶ 58.

WHEREFORE, the Court orders as follows:

- a. The Plaintiffs' Motions are granted. The defendants' cross-motion for summary judgment is denied, with prejudice, because the Court finds that there is no police power or reserved sovereign power to diminish pension benefits. Pursuant to 735 ILCS 5/2-701, the Court enters a final declaratory judgment that Public Act 98-0599 is unconstitutional and void in its entirety;
- b. The temporary restraining order and preliminary injunction entered previously in this case is hereby made permanent. The defendants are permanently enjoined from enforcing or implementing any provision of Public Act 98-0599;
- c. Pursuant to Illinois Supreme Court Rule 304(a), the Court finds that there is no just reason for delaying either enforcement of this order or appeal or both; and
- d. Status is set for \_\_\_\_\_, 2015 at \_\_\_\_\_ on any fee petition that one or more of the plaintiffs may file.

Date:

ENTERED:

---

Judge John W. Belz

**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT  
SANGAMON COUNTY ILLINOIS**

---

IN RE: PENSION LITIGATION

)  
)  
)  
No. 2014 MR 1  
Honorable John W. Belz

---

**Illinois Supreme Court Rule 18 Findings**

On November 21, 2014, this Court entered an order granting plaintiffs' joint motion for partial summary judgment, granting plaintiffs' joint motion for judgment on the pleadings on defendants' affirmative defense and the SUAA plaintiffs' motion to strike defendants' affirmative defense, denying defendants' cross-motion for summary judgment, permanently restraining enforcement or implementation of the Act, and finding that no just reason to delay enforcement or appeal of the order existed. Because the November 21, 2014 order, which is incorporated herein by reference, invalidated a state statute, the Court enters these findings pursuant to Illinois Supreme Court Rule 18:

1. Public Act 98-0599 (the "Act") is unconstitutional in its entirety;
2. The Act violates the Pension Protection Clause of the Illinois Constitution, Ill. Const. art. XIII, § 5;
3. The Act is unconstitutional on its face;
4. The Act cannot be reasonably construed in a manner that would preserve its validity;
5. The finding of unconstitutionality of the Act is necessary to the judgment rendered and such judgment cannot rest upon an alternative ground; and
6. The notice required by Illinois Supreme Court Rule 19 has been served and those with such notice have been given adequate time and opportunity under the circumstances to defend the Act.

Date: \_\_\_\_\_

Enter: \_\_\_\_\_

**Exhibit B**

Illinois SERS - Public Act 98-0599				
Scenario	Baseline - 7/1/2012	1	2	3
Funding Policy	90% by 2045	100% ARC Funding as a Level Percent of Pay Over 30 Years	100% ARC Funding as a Level Percent of Pay Over 30 Years	100% ARC Funding as a Level Percent of Pay Over 30 Years
Actuarial Cost Method	Projected Unit Credit	Projected Unit Credit Through FY 2015; Entry Age Normal Thereafter	Projected Unit Credit Through FY 2015; Entry Age Normal Thereafter	Projected Unit Credit Through FY 2015; Entry Age Normal Thereafter
Components Included In Scenario	N/A	1% Reduction in EEC; Tier 1 Pensionable Pay Capped Similarly to Tier 2; New COLA Structure Based on \$800/\$1,000 per year of service limits and Indexed at Full CPI Up To and Throughout Retirement not Including Current and Future Widows and Survivors; Age-based Staggered Delay for Tier 1 Active Members Based on Three Year Age Bands; Retirement Age Eligibility Increases for Tier 1 Active Members	1% Reduction in EEC; Tier 1 Pensionable Pay Capped Similarly to Tier 2; New COLA Structure Based on \$800/\$1,000 per year of service limits and Indexed at Full CPI Up To and Throughout Retirement not Including Current and Future Widows and Survivors; Age-based Staggered Delay for Tier 1 Active Members Based on Three Year Age Bands; Retirement Age Eligibility Increases for Tier 1 Active Members	1% Reduction in EEC; Tier 1 Pensionable Pay Capped Similarly to Tier 2; New COLA Structure Based on \$800/\$1,000 per year of service limits and Indexed at Full CPI Up To and Throughout Retirement not Including Current and Future Widows and Survivors; Age-based Staggered Delay for Tier 1 Active Members Based on Three Year Age Bands; Retirement Age Eligibility Increases for Tier 1 Active Members
Additional Supplemental Contributions Beginning in FY2019	N/A	N/A	Additional Contributions Beginning in FY 2019 and Treated as a "Pure" Add On	Additional Contributions Beginning in FY 2019 and Treated as a "Pure" Add On
Additional Supplemental Contributions Beginning in FY2016	N/A	N/A	N/A	Additional Contributions of 10% of the Projected Savings Determined Between the Baseline and Current Impact Scenario Beginning in FY 2016 and Treated as a "Pure" Add On
Fiscal Year	Contribution Dollar Amount (\$ in millions)			
2013	\$1,578	\$1,578	\$1,578	\$1,578
2014	1,663	1,663	1,663	1,663
2015	1,757	1,748	1,748	1,748
2016	1,817	1,686	1,686	1,699
2017	1,874	1,758	1,758	1,770
2018	1,947	1,792	1,792	1,807
2019	2,012	1,825	1,907	1,918
2020	2,074	1,858	2,085	2,085
2021	2,139	1,893	2,120	2,122
2022	2,206	1,929	2,156	2,161
2023	2,274	1,964	2,191	2,199
2024	2,340	2,000	2,227	2,238
2025	2,406	2,037	2,264	2,278
2026	2,479	2,076	2,303	2,321
2027	2,555	2,116	2,343	2,364
2028	2,628	2,157	2,384	2,408
2029	2,705	2,202	2,430	2,457
2030	2,777	2,251	2,478	2,508
2031	2,854	2,300	2,528	2,560
2032	2,936	2,352	2,579	2,615
2033	3,012	2,400	2,627	2,666
2034	3,372	2,452	2,679	2,749
2035	3,460	2,509	2,736	2,809
2036	3,549	2,568	2,795	2,871
2037	3,637	2,629	2,856	2,934
2038	3,726	2,693	2,920	3,001
2039	3,816	2,757	2,600	1,300
2040	3,908	2,820	398	398
2041	4,001	2,883	404	404
2042	4,094	2,943	409	409
2043	4,188	2,998	415	415
2044	4,283	3,036	422	422
2045	4,379	394	428	428
Total Cont. Through 2045	\$94,446	\$72,267	\$63,909	\$63,305
Present Value of Total Cont.	\$28,568	\$24,209	\$24,207	\$24,207

Illinois SERS - Public Act 98-0599				
Scenario	Baseline - 7/1/2012	1	2	3
Funding Policy	90% by 2045	100% ARC Funding as a Level Percent of Pay Over 30 Years	100% ARC Funding as a Level Percent of Pay Over 30 Years	100% ARC Funding as a Level Percent of Pay Over 30 Years
Actuarial Cost Method	Projected Unit Credit	Projected Unit Credit Through FY 2015; Entry Age Normal Thereafter	Projected Unit Credit Through FY 2015; Entry Age Normal Thereafter	Projected Unit Credit Through FY 2015; Entry Age Normal Thereafter
Components Included In Scenario	N/A	1% Reduction in EEC; Tier 1 Pensionable Pay Capped Similarly to Tier 2; New COLA Structure Based on \$800/\$1,000 per year of service limits and Indexed at Full CPI Up To and Throughout Retirement not Including Current and Future Widows and Survivors; Age-based Staggered Delay for Tier 1 Active Members Based on Three Year Age Bands; Retirement Age Eligibility Increases for Tier 1 Active Members	1% Reduction in EEC; Tier 1 Pensionable Pay Capped Similarly to Tier 2; New COLA Structure Based on \$800/\$1,000 per year of service limits and Indexed at Full CPI Up To and Throughout Retirement not Including Current and Future Widows and Survivors; Age-based Staggered Delay for Tier 1 Active Members Based on Three Year Age Bands; Retirement Age Eligibility Increases for Tier 1 Active Members	1% Reduction in EEC; Tier 1 Pensionable Pay Capped Similarly to Tier 2; New COLA Structure Based on \$800/\$1,000 per year of service limits and Indexed at Full CPI Up To and Throughout Retirement not Including Current and Future Widows and Survivors; Age-based Staggered Delay for Tier 1 Active Members Based on Three Year Age Bands; Retirement Age Eligibility Increases for Tier 1 Active Members
Additional Supplemental Contributions Beginning in FY2019	N/A	N/A	Additional Contributions Beginning in FY 2019 and Treated as a "Pure" Add On	Additional Contributions Beginning in FY 2019 and Treated as a "Pure" Add On
Additional Supplemental Contributions Beginning in FY2016	N/A	N/A	N/A	Additional Contributions of 10% of the Projected Savings Determined Between the Baseline and Current Impact Scenario Beginning in FY 2016 and Treated as a "Pure" Add On
Fiscal Year	Contribution as a Percent of Payroll			
2013	36.12%	36.12%	36.12%	36.12%
2014	38.44%	38.44%	38.44%	38.44%
2015	39.22%	39.03%	39.03%	39.03%
2016	39.21%	36.40%	36.40%	36.68%
2017	39.12%	36.96%	36.96%	37.21%
2018	39.34%	36.69%	36.69%	37.01%
2019	39.35%	36.39%	38.04%	38.25%
2020	39.27%	36.11%	40.52%	40.52%
2021	39.22%	35.80%	40.10%	40.13%
2022	39.17%	35.50%	39.69%	39.78%
2023	39.14%	35.21%	39.29%	39.43%
2024	39.04%	34.92%	38.89%	39.08%
2025	38.96%	34.63%	38.50%	38.74%
2026	38.97%	34.35%	38.11%	38.40%
2027	38.99%	34.07%	37.73%	38.07%
2028	38.95%	33.79%	37.35%	37.73%
2029	38.92%	33.52%	36.98%	37.40%
2030	38.84%	33.29%	36.65%	37.09%
2031	38.77%	33.07%	36.33%	36.80%
2032	38.79%	32.85%	36.02%	36.52%
2033	38.87%	32.62%	35.71%	36.23%
2034	42.44%	32.39%	35.39%	36.31%
2035	42.44%	32.20%	35.12%	36.05%
2036	42.44%	32.04%	34.87%	35.81%
2037	42.44%	31.88%	34.64%	35.58%
2038	42.44%	31.74%	34.41%	35.36%
2039	42.44%	31.60%	29.81%	14.90%
2040	42.44%	31.47%	4.44%	4.44%
2041	42.44%	31.33%	4.39%	4.39%
2042	42.44%	31.17%	4.34%	4.34%
2043	42.44%	30.97%	4.29%	4.29%
2044	42.44%	30.60%	4.25%	4.25%
2045	42.44%	3.88%	4.21%	4.21%

# Teachers' Retirement System of the State of Illinois

Prepared January 17, 2014

## Public Act 98-0599 (Senate Bill 1)

### Comparison of Contributions and Actuarial Accrued Liability (\$ Amounts in Billions)

A

B

#### Results of the June 30, 2013 Actuarial Valuation

#### Results of the June 30, 2013 Actuarial Valuation updated to reflect the provisions of Public Act 98-0599

Year Ended	Contributions					Liability Measures				Contributions					Liability Measures			
	Member	School District	Federal Funds	State	Total	Actuarial Accrued Liability	Actuarial Value of Assets	Unfunded Accrued Liability	Funded Ratio	Member	School District	Federal Funds	State	Total	Actuarial Accrued Liability*	Actuarial Value of Assets	Unfunded Accrued Liability	Funded Ratio
June 30																		
2013						\$ 93.89	\$ 38.16	\$ 55.73	40.6%						\$ 79.54	\$ 38.16	\$ 41.38	48.0%
2014	\$ 1.00	\$ 0.12	\$ 0.10	\$ 3.44	\$ 4.66	97.87	41.68	56.19	42.6%	\$ 1.00	\$ 0.12	\$ 0.10	\$ 3.44	\$ 4.66	84.67	41.68	42.99	49.2%
2015	1.05	0.12	0.03	3.41	4.61	101.93	44.83	57.10	44.0%	0.94	0.12	0.03	3.41	4.50	86.90	44.67	42.23	51.4%
2016	1.09	0.13	0.03	3.49	4.74	106.09	47.09	59.00	44.4%	0.97	0.13	0.01	2.63	3.74	89.11	45.94	43.17	51.6%
2017	1.13	0.14	0.03	3.57	4.87	110.33	50.00	60.33	45.3%	1.01	0.14	0.01	2.65	3.81	91.32	47.77	43.55	52.3%
2018	1.18	0.15	0.03	3.73	5.09	114.65	52.69	61.96	46.0%	1.04	0.14	0.01	2.75	3.94	93.50	49.32	44.18	52.7%
2019	1.23	0.15	0.03	3.86	5.27	119.06	55.48	63.58	46.6%	1.08	0.15	0.01	2.99	4.23	95.69	51.07	44.62	53.4%
2020	1.28	0.16	0.03	4.01	5.48	123.57	58.40	65.17	47.3%	1.11	0.15	0.01	3.40	4.67	97.86	53.22	44.64	54.4%
2021	1.33	0.17	0.03	4.17	5.70	128.15	61.46	66.69	48.0%	1.15	0.16	0.00	3.50	4.81	100.02	55.49	44.53	55.5%
2022	1.39	0.18	0.03	4.33	5.93	132.83	64.67	68.16	48.7%	1.20	0.17	0.00	3.60	4.97	102.17	57.90	44.27	56.7%
2023	1.45	0.20	0.03	4.51	6.19	137.60	68.08	69.52	49.5%	1.25	0.18	0.00	3.71	5.14	104.32	60.48	43.84	58.0%
2024	1.51	0.22	0.03	4.68	6.44	142.46	71.68	70.78	50.3%	1.30	0.20	0.00	3.82	5.32	106.45	63.25	43.20	59.4%
2025	1.58	0.24	0.03	4.86	6.71	147.39	75.48	71.91	51.2%	1.33	0.16	0.00	3.94	5.43	108.57	66.15	42.42	60.9%
2026	1.64	0.26	0.03	5.06	6.99	152.40	79.52	72.88	52.2%	1.39	0.19	0.00	4.05	5.63	110.69	69.31	41.38	62.6%
2027	1.71	0.29	0.03	5.26	7.29	157.45	83.80	73.65	53.2%	1.45	0.21	0.00	4.18	5.84	112.80	72.74	40.06	64.5%
2028	1.78	0.28	0.03	5.46	7.55	162.51	88.28	74.23	54.3%	1.51	0.23	0.00	4.30	6.04	114.89	76.44	38.45	66.5%
2029	1.84	0.30	0.02	5.67	7.83	167.56	92.98	74.58	55.5%	1.54	0.18	0.00	4.43	6.15	116.94	80.35	36.59	68.7%
2030	1.91	0.32	0.02	5.86	8.11	172.58	97.89	74.69	56.7%	1.61	0.21	0.00	4.57	6.39	118.97	84.59	34.38	71.1%
2031	1.98	0.34	0.02	6.05	8.39	177.54	103.01	74.53	58.0%	1.68	0.23	0.00	4.71	6.62	121.04	89.27	31.77	73.8%
2032	2.07	0.36	0.02	6.25	8.70	182.41	108.37	74.04	59.4%	1.74	0.26	0.00	4.84	6.84	123.07	94.35	28.72	76.7%
2033	2.14	0.37	0.01	6.45	8.97	187.15	113.94	73.21	60.9%	1.76	0.19	0.00	4.97	6.92	125.07	99.72	25.35	79.7%
2034	2.21	0.37	0.01	7.04	9.63	191.71	120.11	71.60	62.7%	1.83	0.22	0.00	5.15	7.20	127.09	105.62	21.47	83.1%
2035	2.26	0.38	0.01	7.21	9.86	196.07	126.47	69.60	64.5%	1.89	0.23	0.00	5.28	7.40	129.17	112.09	17.08	86.8%
2036	2.31	0.38	0.00	7.37	10.06	200.19	133.00	67.19	66.4%	1.95	0.24	0.00	5.41	7.60	131.25	119.10	12.15	90.7%
2037	2.36	0.39	0.00	7.52	10.27	204.04	139.72	64.32	68.5%	1.97	0.17	0.00	5.53	7.67	133.34	126.57	6.77	94.9%
2038	2.41	0.39	0.00	7.67	10.47	207.58	146.63	60.95	70.6%	2.04	0.19	0.00	5.66	7.89	135.47	134.71	0.76	99.4%
2039	2.45	0.38	0.00	7.81	10.64	210.77	153.69	57.08	72.9%	2.09	0.19	0.00	0.00	2.28	137.73	137.73	0.00	100.0%
2040	2.48	0.36	0.00	7.94	10.78	213.57	160.89	52.68	75.3%	2.15	0.19	0.00	0.00	2.34	140.00	140.74	(0.74)	100.5%
2041	2.49	0.33	0.00	8.06	10.88	215.97	168.22	47.75	77.9%	2.18	0.15	0.00	0.00	2.33	142.30	143.81	(1.51)	101.1%
2042	2.50	0.30	0.00	8.19	10.99	217.98	175.71	42.27	80.6%	2.24	0.15	0.00	0.00	2.39	144.67	147.04	(2.37)	101.6%
2043	2.49	0.27	0.00	8.31	11.07	219.62	183.43	36.19	83.5%	2.29	0.16	0.00	0.00	2.45	147.24	150.57	(3.33)	102.3%
2044	2.46	0.24	0.00	8.44	11.14	220.97	191.43	29.54	86.6%	2.35	0.16	0.00	0.00	2.51	149.86	154.24	(4.38)	102.9%
2045	2.51	0.17	0.00	8.58	11.26	222.08	199.88	22.20	90.0%	2.40	0.16	0.00	0.00	2.56	152.53	158.09	(5.56)	103.6%
Total	59.22	8.46	0.63	188.26	256.57					51.44	5.73	0.18	102.92	160.27				

SR 22



**Teachers' Retirement System of the State of Illinois**  
**Public Act 98-0599 (Senate Bill 1)**  
**Provisions Valued and Commentary**

Prepared January 17, 2014

A summary of the provisions of Public Act 98-0599 effective June 1, 2014 includes:

- Active Tier I Members Salary Contribution Decrease from 9.4% to 8.4%
- Creditable Earnings Cap for Tier I Members at the Tier II salary cap, with members salary cap set at their 2014 salary if higher
- Increased Retirement Age for Tier I Active Members by adding four months to the previous statutory retirement age for every year that a member is under age 46 for a maximum delay of five years
- New COLA Formula and Rates for Tier I Active and Retired Member
- COLA is 3% of the lesser of the member's current pension and a "pension threshold." The pension threshold for a member is initially set at \$1,000 multiplied by the members total service. Annually beginning in 2016, the \$1,000 threshold multiplier will be increased by the rate of inflation, but the rate will not fall below 0% in case inflation is negative.
  - As long as a member's pension is less than their current pension threshold, when the member is eligible for a COLA it will be 3 percent compounded, which means calculated from the member's current pension.
  - Once a member's pension equals or exceeds their threshold, the COLA calculation changes. The COLA in every year then becomes 3 percent of the member's current threshold amount.
- Staggered COLA Forfeiture - Tier I active members who retire on or after July 1, 2014 would forfeit at least one COLA increase, and as many as five increases, based on a sliding scale tied to the member's age at the time the law takes effect, which is June 1. Any TRS member eligible to retire that does retire on or before June 30, 2014 will not have to forfeit any COLA increases.
- Actuarial Benefit Calculation Change - the money purchase formula interest rate is changed from the mandated 6 percent (for crediting interest) and 8 percent (for determining factors) to a single floating rate. The new floating rate is the interest rate on a 30-year U.S. Treasury bond plus 75 basis points. (0.75 percent). The rate currently would be under 5%.
- State Contributions - State contributions are the sum of a) the base contribution plus b) supplemental pension contributions plus c) additional 10% savings contributions
  - a) Base state contribution - The base state contribution is set at a level percent of pay from now through 2044 that will result in TRS being 100% funded on June 30, 2044 on an entry age normal cost basis.
  - b) Supplemental Pension Contributions - A percentage set at 55.45% for TRS (as communicated to Buck by TRS 12/17/13) of a "supplemental" payment of \$364 million in FY 2019 and \$1 billion in FY 2020 and every year after that until the unfunded liability is paid off. These additional contributions are not used to calculate/reduce the base state contribution until TRS is 100% funded. Supplemental Pension Contributions are projected to cease in FYE 2039.
  - c) Additional State Contributions - beginning in FY 2016 the state will each year earmark 10% of the savings the state will realize from the law's provisions to TRS. The savings are based on A minus B below:
    - A. the contribution that would have been determined under prior law for the year
    - B. the sum of the Base State Contribution and the Supplemental Pension Contributions for the year
- Optional Defined Contribution Retirement Plan - an optional DC plan would be made available for up to 5% of Tier I members; given that this DC plan is intended to be cost neutral we have not explicitly valued this plan.

In preparing this analysis, we followed the provisions of Public Act 98-0599 except as follows:

- We were instructed by TRS Staff to keep the FYE 2015 state contribution unchanged at \$3.41 billion.
- The provisions for early retirement were internally inconsistent within the legislation. To remedy that, we assumed that the age 60 in Section 16-133(B), which defines the age from which benefits are reduced for early retirement, is increased to be consistent with the other early retirement changes found in Public Act 98-0955.

#### Observations

There are changes in the funding provisions in Public Act 98-0599 when compared to proposals that Buck has analyzed over the past few months. This analysis results in lower savings than those that may be expected as follows:

- The Base State Contribution in past analysis was based on employer normal cost plus a 30 year closed amortization of the current unfunded actuarial accrued liability which results in 100% funding in 2044. Public Act 98-0599 funds as a level percent of payroll which results in a funded ratio of 100% in 2044, which is different. All else being equal, the provisions of Public Act 98-0599 resulted in lower base state contributions for the first several years of the projections.
- The Supplemental Pension Contributions in past analysis was based on 61.49% being allocated to TRS; we were instructed by TRS to use 55.45% for this analysis based on the June 30, 2013 funded ratios of the impacted systems. All else being equal, this resulted in lower supplemental pensions contributions for this analysis.
- The Additional State Contributions did not take into consideration the Supplemental Pension Contributions, which, all else being equal, resulted in lower additional state contributions for this analysis.

#### Certifications

Future actuarial measurements may differ significantly from current measurements due to plan experience differing from that anticipated by the economic and demographic assumptions, increases or decreases expected as part of the natural operation of the methodology used for these measurements, and changes in plan provisions or applicable law. Because of limited scope, Buck performed no analysis of the potential range of such future differences.

These results are based on liabilities used for funding purposes only. They do not reflect any changes under GASB 67 and 68, which will be effective for fiscal years beginning after June 15, 2013, and June 15, 2014, respectively. The changes made under the new GASB standards only affect liabilities used for financial statement accounting disclosure purposes. Except where otherwise noted, the projections were based on the same plan provisions as were reflected in the June 30, 2013, actuarial valuation of the System.

Larry Langer and Paul Wilkinson are Members of the American Academy of Actuaries, and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

Illinois SURS

Senate Bill 1/PUBLIC Act 98-0599 Analysis with Normal Cost Plus Level Percent of Pay Amortization of Unfunded Liability (excludes SMP and debt service contributions, includes supplemental payments\*)

Scenario Number	Baseline	8	9	10	8	9	10	
Funding Policy	90% by 2043 - Level Percent Payments	Normal Cost Plus 30-Year Closed Period Level Percent Amortization of Unfunded Liability	Normal Cost Plus 30-Year Closed Period Level Percent Amortization of Unfunded Liability with Forfeiture Supplemental Payments	Normal Cost Plus 30-Year Closed Period Level Percent Amortization of Unfunded Liability with Forfeiture and Additional Supplemental Payments	Normal Cost Plus 30-Year Closed Period Level Percent Amortization of Unfunded Liability	Normal Cost Plus 30-Year Closed Period Level Percent Amortization of Unfunded Liability with Forfeiture Supplemental Payments	Normal Cost Plus 30-Year Closed Period Level Percent Amortization of Unfunded Liability with Forfeiture and Additional Supplemental Payments	
Cost Method	Projected Unit Credit	Entry Age**	Entry Age**	Entry Age**	Entry Age**	Entry Age**	Entry Age**	
Tier 1 Active/Inactive	NA	Reduce Tier 1 EE Contributions by 1%. Reduce ERI to 4.5%. Change money purchase factors, 3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015). Skipped COLA, Cap Pensionable Pay at Tier 2 Pay Cap, Delay Retirement Age	Reduce Tier 1 EE Contributions by 1%. Reduce ERI to 4.5%. Change money purchase factors, 3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015). Skipped COLA, Cap Pensionable Pay at Tier 2 Pay Cap, Delay Retirement Age	Reduce Tier 1 EE Contributions by 1%. Reduce ERI to 4.5%. Change money purchase factors, 3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015). Skipped COLA, Cap Pensionable Pay at Tier 2 Pay Cap, Delay Retirement Age	Reduce Tier 1 EE Contributions by 1%. Reduce ERI to 4.5%. Change money purchase factors, 3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015). Skipped COLA, Cap Pensionable Pay at Tier 2 Pay Cap, Delay Retirement Age	Reduce Tier 1 EE Contributions by 1%. Reduce ERI to 4.5%. Change money purchase factors, 3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015). Skipped COLA, Cap Pensionable Pay at Tier 2 Pay Cap, Delay Retirement Age	Reduce Tier 1 EE Contributions by 1%. Reduce ERI to 4.5%. Change money purchase factors, 3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015). Skipped COLA, Cap Pensionable Pay at Tier 1 Pay Cap, Delay Retirement Age	
Tier 2 Active and SMP	NA	Reduce ERI to 4.5% for Tier 2	Reduce ERI to 4.5% for Tier 2	Reduce ERI to 4.5% for Tier 2	Reduce ERI to 4.5% for Tier 2	Reduce ERI to 4.5% for Tier 2	Reduce ERI to 4.5% for Tier 2	
Tier 3 Retired/Beneficiary	N/A	3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015)	3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015)	3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015)	3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015)	3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015)	3.00% COLA on minimum of prior year benefit or \$1,000 (indexed by CPI from FY2015)	
Scenario Component Added	Baseline	All Benefit Changes and Funding Change	Include Forfeiture Supplemental Payments as a Pure Add On	Include Additional Supplemental Payments as a Pure Add On	All Benefit Changes and Funding Change	Include Forfeiture Supplemental Payments as a Pure Add On	Include Additional Supplemental Payments as a Pure Add On	
Fiscal Year	Contribution Dollar Amount (\$ in millions)				Difference			
2013	\$1,401.3	\$1,401.3	\$1,401.3	\$1,401.3	\$0.0	\$0.0	\$0.0	\$1,399.0
2014	1,499.7	1,499.7	1,499.7	1,499.7	\$0.0	\$0.0	\$0.0	1,503.7
2015	1,535.4	1,535.4	1,535.4	1,535.4	\$0.0	\$0.0	\$0.0	-444.5
2016	1,336.2	1,314.6	1,314.6	1,336.8	\$221.5	-\$221.5	-\$199.4	-438.8
2017	1,552.3	1,291.2	1,291.2	1,317.3	\$261.1	-\$261.1	-\$235.0	-426.1
2018	1,398.8	1,311.2	1,311.2	1,340.0	\$287.5	-\$287.5	-\$258.8	-455.6
2019	1,630.0	1,319.7	1,319.7	1,416.3	\$310.3	-\$310.3	-\$213.7	-395.1
2020	1,672.6	1,336.5	1,336.6	1,552.0	\$334.1	-\$334.0	-\$120.6	-280.7
2021	1,716.5	1,359.4	1,359.5	1,575.2	\$357.2	-\$357.2	-\$157.1	-289.9
2022	1,761.5	1,381.7	1,381.8	1,599.8	\$379.8	-\$379.7	-\$161.8	-298.1
2023	1,808.0	1,405.3	1,405.4	1,625.7	\$402.7	-\$402.6	-\$182.3	-305.4
2024	1,855.3	1,430.3	1,430.4	1,652.9	\$425.1	-\$425.0	-\$202.5	-308.8
2025	1,903.9	1,456.3	1,456.4	1,681.2	\$447.6	-\$447.5	-\$222.7	-307.4
2026	1,953.7	1,483.6	1,483.7	1,710.7	\$470.1	-\$470.0	-\$243.0	-310.3
2027	2,004.6	1,511.9	1,512.0	1,741.3	\$492.6	-\$492.5	-\$263.3	-312.3
2028	2,056.7	1,541.3	1,541.4	1,773.0	\$515.3	-\$515.2	-\$283.7	-308.5
2029	2,108.9	1,571.6	1,571.7	1,805.5	\$537.2	-\$537.1	-\$303.4	-303.6
2030	2,156.0	1,602.8	1,602.9	1,838.2	\$559.1	-\$559.0	-\$317.7	-292.4
2031	2,205.4	1,634.9	1,635.0	1,872.0	\$580.5	-\$580.4	-\$333.3	-280.4
2032	2,262.3	1,667.3	1,667.4	1,907.1	\$594.8	-\$594.7	-\$353.2	-273.0
2033	2,327.2	1,700.4	1,700.5	1,943.2	\$626.8	-\$626.7	-\$384.1	-270.3
2034	2,394.0	1,733.3	1,733.4	1,979.5	\$660.7	-\$660.6	-\$414.5	-285.6
2035	2,455.2	1,766.3	1,766.4	2,015.3	\$689.0	-\$688.9	-\$440.0	-273.2
2036	2,517.8	1,798.9	1,799.0	2,050.9	\$718.8	-\$718.7	-\$466.9	-258.2
2037	2,581.7	1,829.0	1,829.1	2,087.1	\$752.7	-\$752.6	-\$494.1	-240.8
2038	2,647.3	1,857.4	1,857.5	2,123.3	\$789.9	-\$789.8	-\$521.8	-221.8
2039	2,715.0	1,885.5	1,885.6	2,159.7	\$831.5	-\$831.4	-\$551.1	-201.3
2040	2,784.4	1,905.7	1,905.8	2,197.1	\$878.7	-\$878.6	-\$582.4	-174.6
2041	2,857.0	1,920.9	1,921.0	2,235.1	\$936.2	-\$936.1	-\$619.4	-123.4

250.0 50.6

2042	2,932.2	1,923.0	163.7	163.7	\$1,009.2	-\$2,768.3	\$2,768.3	-2,799.1
2043	3,009.4	1,895.2	166.0	166.0	-\$1,114.2	-\$2,843.4	-\$2,843.4	-2,867.6
2044	3,068.1	155.9	168.5	168.5	-\$2,932.2	-\$2,919.6	\$2,919.6	-2,937.2
2045	3,168.0	158.2	171.2	171.2	-\$3,009.8	-\$2,996.8	-\$2,996.8	-3,007.5
Total Cont. Through 2045	\$71,696.5	\$49,586.3	\$43,216.8	\$42,416.7	-\$22,110.3	-\$28,479.8	-\$29,279.8	-\$23,867.4
Cumulative Change in Total Cont. Through 2045 from Baseline	\$0.0	-\$22,110.3	-\$28,479.8	-\$29,279.8	-\$22,110.3	-\$28,479.8	-\$29,279.8	-\$23,867.4
Individual Component Change in Total Cont. Through 2045	\$0.0	-\$22,110.3	-\$6,369.5	-\$800.1	-\$22,110.3	-\$6,369.5	-\$800.1	-\$7,459.1
Present Value of Total Cont.	\$21,872.0	\$17,242.0	\$17,219.0	\$17,219.0	-\$4,630.0	-\$4,653.0	-\$4,653.0	-\$4,852.0
Change in PV from Baseline	\$0.0	-\$4,630.0	-\$4,653.0	-\$4,653.0	-\$4,630.0	-\$4,653.0	-\$4,653.0	-4852.0

IN THE  
SUPREME COURT OF ILLINOISSUPREME COURT  
CLERKIN RE: PENSION REFORM LITIGATION  
(consolidated pursuant to Supreme Court Rule 384)) Appeal from the Circuit Court  
) for the Seventh Judicial Circuit,  
) Sangamon County, Illinois, No.  
) 2014 MR 1  
) Honorable JOHN W. BELZ  
) Judge Presiding**AFFIDAVIT OF CAROLYN E. SHAPIRO**STATE OF ILLINOIS       )  
                                      )  
COUNTY OF COOK       )       SS.

The undersigned, Carolyn E. Shapiro, being first duly sworn, states:

1. I am the Illinois Solicitor General, and I am one of the attorneys representing the defendants, Governor Patrick Quinn, *et al.* (“Defendants”), in this appeal. I submit this affidavit in support of Defendants’ motion to accelerate the docket in this appeal pursuant to Supreme Court Rule 311(b).

2. Submitted with Defendants’ motion is a Supporting Record (identified by the prefix “SR”), which contains true and correct copies of documents filed in the Pension Reform Litigation, along with this affidavit.

3. This direct appeal under Supreme Court Rule 302 involves the five cases challenging the validity of Public Act 98–599 (the “Act”) that were consolidated in the circuit court of Sangamon County pursuant to Supreme Court Rule 384. SR 1-10. On November 26, 2014, Defendants filed a notice of appeal from the circuit court’s November 21, 2014 order and related findings under Supreme Court Rule 18, entered on November 25, 2014, which declared the Act unconstitutional

and struck it down in its entirety. *Id.*

4. Defendants seek an expedited schedule for briefing, argument, and disposition of this appeal in light of the great public importance of this case and the effect the Court's decision will have on formulation of the State's budget going forward, including the budget for fiscal year 2016 (starting on July 1, 2015), which realistically must be completed by May 31, 2015.

### **Summary of the Proceedings Below**

5. The complaints in each of the five consolidated suits alleged that the Act's changes to pension benefits violate the Pension Clause of the Illinois Constitution (art. XIII, § 5). Defendants' answers to each of the complaints alleged, as affirmative matter under Section 2-613(d) of the Code of Civil Procedure, that the Act was a reasonable and necessary measure to advance an important public interest in light of extraordinary, unforeseen circumstances, and therefore represented a proper exercise of the State's police powers with respect to constitutionally protected contract rights. Defendants alleged that these circumstances included events related to the Great Recession that dramatically increased the state retirement systems' unfunded liabilities and corresponding state contributions, and that simultaneously greatly reduced the revenues available to make those contributions and to address other critical public needs, for which the State had already reduced spending significantly over the past decade. Plaintiffs filed a consolidated reply to this affirmative matter and thereafter filed three separate motions — a motion for summary judgment, a motion to strike, and a motion for judgment on the pleadings — maintaining that the police powers doctrine applicable to all other contracts, including contracts with the government, does not apply to the contractual relationship established by the Pension Clause. Defendants separately filed a motion for summary judgment and supporting materials that set forth both the

economic and fiscal circumstances leading to passage of the Act, including several earlier reforms that did not change current members' pension benefits, and the economic and fiscal effects of not implementing the Act.

6. The circuit court ordered briefing and argument first on Plaintiffs' motions. Following that briefing, the circuit court requested the parties to submit proposed orders and, on the day after oral argument, entered a six-page order adopting Plaintiffs' proposed order with minor changes. SR 3-8, 11, 13-18. That order concluded, in particular, that the contractual relationship protected by the Pension Clause, unlike all other contract rights, is not subject to any exception for an otherwise legitimate exercise of the State's police powers, and that the Act's provisions reducing future benefit increases therefore violate the Pension Clause. SR 3-8.

7. The circuit court's order further provided that, notwithstanding Section 97 of the Act making some provisions "inseverable" and declaring the remaining provisions "severable," none of the Act's provisions were severable from the provisions the court found to violate the Pension Clause, and the Act was therefore void in its entirety. SR 6-7.

8. The order permanently enjoined implementation of the Act, and it further included a finding pursuant to Supreme Court Rule 304(a) that there was no reason to delay enforcement or appeal from its decision. SR 8. A few days later, the court supplemented that order with findings pursuant to Supreme Court Rule 18. SR 9. Defendants then filed this appeal. SR 1-10.

### **The State's Budget Procedures**

9. Pursuant to Article VIII, Section 2(a) of the Illinois Constitution and Section 50-5 of the State Budget Law, 15 ILCS 20/50-5 (2012), the Governor must submit his budget proposal for the fiscal-year 2016 budget to the General Assembly, including a description of all projected

receipts and expenditures, by February 18, 2015. Pursuant to Article VIII, Section 2(b) and Article IV, Section 8(d) of the Illinois Constitution, the General Assembly must then pass a law that makes appropriations for all expenditures of public funds by the State, does not appropriate funds for fiscal year 2016 that exceed the funds estimated to be available for that year, and is limited to the subject of appropriations. In addition, pursuant to Article IV, Section 10 of the Illinois Constitution, if the General Assembly does not pass this appropriation law (commonly referred to as the annual budget) by May 31, 2015, that law cannot take effect by the start of the fiscal year absent the vote of a three-fifths majority of the House and of the Senate.

#### **Reasons for Seeking Expedited Proceedings in this Appeal**

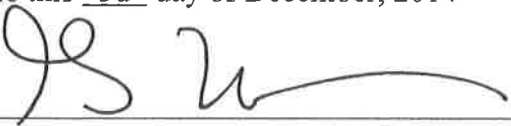
10. The Court's ruling in this appeal is directly relevant to that budget process. As disclosed by materials included in the circuit court record (and in the Supporting Record submitted with Defendants' Rule 311(b) motion), the Act changed the schedule of state contributions to the affected retirement systems so that, compared to prior law, the State's projected annual contributions would be reduced by about \$1 billion per year in the early years of the Act's application. SR 20-26. The circuit court's judgment consequently creates uncertainty about whether the State must find alternative means to cover the multi-year budget shortfall that would result if those contribution reductions are unavailable. A prompt resolution by the Court of Defendants' appeal will facilitate critical budget-related decisions for fiscal year 2016 that depend on whether the Act is invalid and, therefore, whether the State must make long-term reductions in other spending and/or increases in taxes.

FURTHER affiant sayeth not.



Carolyn E. Shapiro

SUBSCRIBED and SWORN to before  
me this 3d day of December, 2014



NOTARY PUBLIC

